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Attorneys for Defendant

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

AMERICAN SMALL BUSINESS )  
LEAGUE, )  
Plaintiff, )  
v. )  
UNITED STATES SMALL BUSINESS )  
ADMINISTRATION )  
Defendant. )  
No. C 08-0829 MHP  
STATUS REPORT

On May 19, 2008, the Court directed Defendant to “provide documents from GSA as requested by” Plaintiff. Elec. Dkt. No. 12. On May 30, 2008, at the request of Defendant, GSA transmitted to Plaintiff an additional copy of its February 5, 2008 response to Plaintiff’s request for records. See Declaration of Earl Warrington, p. 3 ¶ 12.

**JOSEPH P. RUSSONIELLO**  
United States Attorney

/s/  
MELANIE L. PROCTOR  
Assistant United States Attorney  
Attorneys for Defendant

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

AMERICAN SMALL BUSINESS )  
LEAGUE, )  
Plaintiff, )  
v. )  
UNITED STATES SMALL BUSINESS )  
ADMINISTRATION )  
Defendant. )  
No. C 08-0829 MHP  
DECLARATION OF EARL  
WARRINGTON

I, EARL WARRINGTON, declare as follows:

1. I have served as the Director of the Integrated Acquisition Environment Division at the General Services Administration (“GSA”) for five years.

2. In my capacity as Director of the Integrated Acquisition Environment Division, my responsibilities include, among others, the oversight and management of the Federal Procurement Data System – Next Generation (“Data System”). The Data System is an Oracle software database, accessible through the internet, for agencies to report information regarding contract actions.

3. As stated in 48 C.F.R. § 4.602, the Data System is the central repository of federal government contracting information, for use by various federal agencies in fulfilling their functions, such as measuring and assessing government contracting with regard to small businesses. As required by federal regulations at 48 C.F.R. § 4.604, it is the responsibility of various contracting agencies to ensure and certify that the information in the Data System is accurate.

4. Using parameters defined by the U.S. Small Business Administration (“Defendant”), GSA programmed the Data System to generate certain information regarding small business participation in federal contracts for the purpose of creating Defendant’s annual Small Business Goaling Reports.

5. Thus, through GSA's programming (independently or through a contractor), the Data System automatically searches the records submitted by contracting officers and produces the information

1 to be used in the official Small Business Goaling Report. GSA then transmits that information to  
2 Defendant.

3 6. This information generated by the Data System does not display or contain the specific  
4 names of the firms that were coded as small businesses or the specific dollar amounts that were  
5 awarded to those firms. In the process of causing the Data System to create the Small Business  
6 Goaling Reports, GSA neither creates a list of, nor transmits to Defendant, the specific names of the  
7 firms that were coded as small businesses and the specific dollar amounts that were awarded to those  
8 firms.

9 7. On or about September 20, 2007, the American Small Business League ("Plaintiff")  
10 submitted a request to GSA for records pursuant to the Freedom of Information Act. Specifically,  
11 Plaintiff requested that GSA produce "[t]he specific names of the firms that were coded as small  
12 businesses for FY 2005 and the specific dollar amounts that were awarded to those firms," as well  
13 as "[t]he specific names of the firms that were coded as small businesses for FY 2006 and the  
14 specific dollar amounts that were awarded to those firms."

15 8. GSA responded to Plaintiff's request for records on or about October 15, 2007, offering  
16 Plaintiff access to a copy of the entire Data System, used by GSA to generate the Small Business  
17 Goaling Report information. Plaintiff accepted GSA's offer and received access to the copy on or  
18 about November 19, 2007. Deeming GSA's response unacceptable, Plaintiff appealed on or about  
19 December 20, 2007.

20 9. On or about February 5, 2008, GSA transmitted to Plaintiff its final response to Plaintiff's  
21 September 20, 2007 request for records. GSA's response was transmitted by email, a copy of which  
22 is attached hereto as Exhibit A. Attached to that email was a .zip file, which contained two  
23 spreadsheet files in both Microsoft Excel and .txt formats. These files were created solely for the  
24 purpose of responding to Plaintiff's request for records.

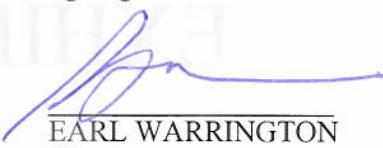
25 10. These two spreadsheet files transmitted to Plaintiff contain lists of the small businesses and  
26 contract amounts that were the source of the numbers in the Small Business Goaling Reports for FY  
27 2005 and FY 2006. If printed from Microsoft Excel, the files for FY 2005 and FY 2006 would  
28 contain 4,675 and 4,977 pages, respectively.

1       11. Although GSA's email to Plaintiff dated February 5, 2008 states, "If you require any further  
2 information, please do not hesitate to contact me," Plaintiff has not contacted GSA regarding this  
3 request for records or GSA's response since February 5, 2008.

4       12. On May 30, 2008, at the request of Defendant, GSA transmitted to Plaintiff an additional  
5 copy of its February 5, 2008 response to Plaintiff's request for records. That transmission (sent by  
6 FedEx, Tracking Number 862398047500) included a cover letter, a copy of which is attached hereto  
7 as Exhibit B, as well as a CD-ROM containing the responsive records.

8                  I declare under penalty of perjury that the foregoing is true and correct.

9       Executed on 2 June 2008

10                    
11                  EARL WARRINGTON  
12                  Director  
13                  Integrated Acquisition Environment Division  
14                  General Services Administration

## EXHIBIT A

Sharon V. To cgunn@asbl.com  
Lighton/ACMA/CO/GSA cc  
/GOV Subj Fw: FOIAs # 120647  
02/05/2008 01:47 PM ect

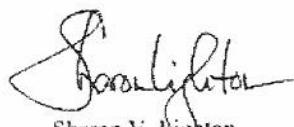
Dear Mr. Gunn:

This is in reference to your Freedom of Information Act appeal requesting GSA to provide the information you initially requested in your FOIA request.

The email below from Pat Brooks, Director, FPDS Program, attaches the data you requested in EXCELL and CVS format.

If you require any further information, please do not hesitate to contact me.

Sincerely,



Sharon V. Lighton  
GSA FOIA Office

----- Forwarded by Sharon V. Lighton/ACMA/CO/GSA/GOV on 02/05/2008 01:45 PM -----

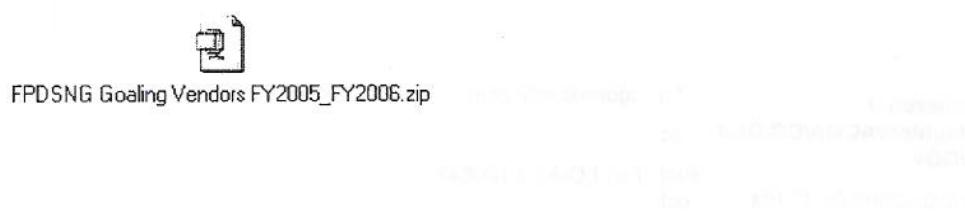
Pat A.  
Brooks/FCI/CO/GSA/G  
OV  
02/04/2008 01:58 PM

Myra,

Attached is the response to FOIA request #120647, Christopher Gunn with the American Small Business League. The firm appealed our decision to provide him the website for the data and requested that we provide the data in EXCELL. The data is in EXCELL and CVS format.

Pat Brooks  
Director, FPDS Program  
703 605-3406

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1. Allowing the Audit Committee to make its own determinations regarding  
the use of PSC funds in 2007 would undermine the audit committee's  
ability to evaluate the financial health of the agency.  
2. Delays in the audit will erode the credibility of the audit, which could damage the  
agency's reputation and morale, particularly among employees who are  
concerned about the audit's outcome.

3. Delays in the audit will result in significant costs to the agency, including:  
a) Increased costs associated with maintaining the agency's financial  
records and preparing them for audit; b) Increased costs associated with  
traveling to the agency's facilities to conduct the audit; c) Increased costs  
associated with the agency's staff being away from their regular duties  
to participate in the audit; d) Increased costs associated with the agency's staff  
being away from their regular duties to participate in the audit.

4. Delays in the audit will result in significant costs to the agency, including:  
a) Increased costs associated with maintaining the agency's financial  
records and preparing them for audit; b) Increased costs associated with  
traveling to the agency's facilities to conduct the audit; c) Increased costs  
associated with the agency's staff being away from their regular duties  
to participate in the audit; d) Increased costs associated with the agency's staff  
being away from their regular duties to participate in the audit.

5. Delays in the audit will result in significant costs to the agency, including:  
a) Increased costs associated with maintaining the agency's financial  
records and preparing them for audit; b) Increased costs associated with  
traveling to the agency's facilities to conduct the audit; c) Increased costs  
associated with the agency's staff being away from their regular duties  
to participate in the audit; d) Increased costs associated with the agency's staff  
being away from their regular duties to participate in the audit.

6. Delays in the audit will result in significant costs to the agency, including:  
a) Increased costs associated with maintaining the agency's financial  
records and preparing them for audit; b) Increased costs associated with  
traveling to the agency's facilities to conduct the audit; c) Increased costs  
associated with the agency's staff being away from their regular duties  
to participate in the audit; d) Increased costs associated with the agency's staff  
being away from their regular duties to participate in the audit.

## EXHIBIT B

*FILE*

Integrated  
Acquisition  
Environment



Mr. Christopher Gunn  
American Small Business League  
3910 Cypress Drive  
Petaluma, CA 94954

May 29, 2008

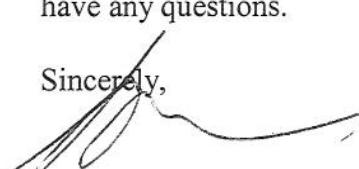
Dear Mr. Gunn:

This letter is in response to the U.S. Small Business Administration's (SBA) recent request in connection with American Small Business League v. SBA, C08-0829 MHP (N.D.Cal.), dated May 21, 2008. In that request SBA asks the General Services Administration (GSA) to provide information to you in response to American Small Business League's (ASBL) Freedom of Information Act (FOIA) request, dated September 20, 2007, regarding small business data for fiscal years 2005 and 2006. Please be advised that GSA is providing this information pursuant to SBA's request and Judge Patel's Order, dated May 19, 2008; however, it is GSA's position that the information that ASBL requested under its FOIA request has been previously provided, in full.

Enclosed is a CD Rom which contains an exact copy of the original .ZIP file containing four files supplied to you on February 5, 2008, by email from Sharon Lighton, GSA FOIA Office, in connection with your FOIA appeal number 120647 for electronic files. This was in addition to our previously granting your organization File Transfer Protocol (FTP) access rights to the same data under email from Rodney Lantier, GSA FPDS Team Leader, on November 20, 2007, in connection to your original FOIA request number 116934. Please note that within the Microsoft® Excel document, subsequent data may be obtained by accessing the different "sheet" tabs as they appear at the bottom of the document.

Please feel free to contact me at 703-605-3404 or by email at [earl.warrington@gsa.gov](mailto:earl.warrington@gsa.gov) if you have any questions.

Sincerely,

  
Earl J. Warrington  
Director  
Integrated Acquisition Environment Division

cc: M. Proctor, Assistant US Attorney, Department of Justice  
Christopher J. McClintock, Trial Attorney, SBA

**Integrated Acquisition Environment**

2011 Crystal Drive | Crystal Park 1 | Suite 911 | Arlington, VA 22202  
Tel. 703-605-3400 | FAX 703-605-3454 | email [integrated.acquisition@gsa.gov](mailto:integrated.acquisition@gsa.gov) | [www.acquisition.gov](http://www.acquisition.gov)